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POST-CONFIRMATION TRUST

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;

Plaintiff,

vs.

HAWAIIAN EXPRESS SERVICE,
(CAPTION CONTINUED)

) CIVIL NO. CV03-00385 SOM-LEK

) (Copyright)

)

) **DECLARATION OF MARTIN G.**

) **WALKER RE: PLAINTIFF WAYNE**

) **BERRY'S SINGLE REPLY TO**

) **OPPOSITIONS FILED BY**

) **DEFENDANTS REGARDING**

) **MOTION FOR**

INC., et al.,

Defendants.

) **RECONSIDERATION OR IN THE**
) **ALTERNATIVE RULE 60(b)**
) **RELIEF FOR FRAUD ON THE**
) **COURT; CERTIFICATE OF**
) **SERVICE**

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) Hearing: February 24, 2006, 2:00 pm

) Judge: Hon. Susan Oki Mollway

) Trial Date: February 28, 2006

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DECLARATION OF MARTIN G. WALKER

I, Martin G. Walker, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate to the best of my knowledge and belief:

1. I graduated in 1973 from the Massachusetts Institute of Technology with a Bachelor of Science Degree in Electrical Engineering. I then attended Stanford University where I received a Masters Degree in Electrical Engineering in 1976 and a Doctorate in Electrical Engineering in 1979.

2. I have been retained by the Post-Confirmation Trust for Fleming Companies, Inc. to examine certain software and related documents and, if possible, render opinions on certain topics in the above-entitled action.

3. I have read Mr. Berry's Reply to Oppositions Filed by Defendants Regarding Motion for Reconsideration or in the Alternative Rule 60(b) Relief for Fraud on the Court. On page 8 of this Reply, Mr. Berry argues that the Storage Copy database snapshot was not identical to the "Previously Produced" database which was produced in September, 2005. ("First, it was not 100% identical.") He appears to base his argument upon certain "splash screens."¹

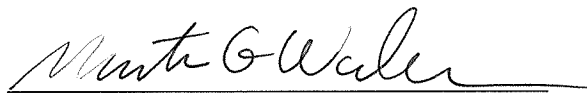
4. Mr. Berry is wrong. In fact the "splash screens" of the two database snapshots are indeed 100% identical. Attached as Exhibit A is an image of the "splash screen" for the Storage Copy database. Attached as Exhibit B is an image of the "splash screen" for the Previously Produced database. These two screens

¹ In the parlance of Microsoft Access, these initial windows are actually called the "Switchboard." However, so as not to further confuse matters, I have adopted Mr. Berry's terminology and refer to these as "splash screens." A switchboard or splash screen is a form used to allow the user to easily switch among different tasks.

are 100% identical.

5. Exhibit C contains a side-by-side comparison of relevant properties of the two “splash screens” corroborating that the two database snapshots are identical. For instance the highlighted number shows that both of the boxes is exactly 1.8646 inches. Similarly the background color is identically specified “8421376.” Thus it is clear that the “splash screens” specifications are identical.

Executed at Honolulu, Hawai’i on February 24, 2006.

A handwritten signature in cursive script, reading "Martin G. Walker", written in black ink. The signature is fluid and stylized, with a long horizontal line extending from the end of the name.

Martin G. Walker